IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CIVIL APPLICATION NO.1592 OF 2005
IN
CIVIL APPLICATION NO. OF 2005
IN
WRIT PETITION NO.7158 OF 2002

Deepak Achrekar — Petitioner
vs.
The Suparibaug Madhyavarti Sahakari Sansthya, Mumbai. — Respondent

Ms.Aaarati Shah i/b. M/s.Parulekar and Associates for the petitioner.

CORAM : B.H. MARLAPALLE,J.

DATED : 15th September 2005

P.C.

This is an application for condonation of delay for applying for restoration of writ petition No.7158/2002. As per the office note, the delay caused is of 539 days. It is stated that during the first week of July 2003, the learned Advocate for the applicant was unable to attend this Court as he was unwell and he had no knowledge that the petition was dismissed in default. It has been also stated that irreparable injustice/loss would be caused to the applicant if the writ petition is not restored to the file.

2. The writ petition was dismissed in default at the

admission stage itself. The farad shows that though notice before admission was issued on 28.3.2003, the learned Advocate did not remit bhatta charges and, therefore, by an order dated 29.4.2003 two weeks extension was granted for remittance of bhatta and on 29.5.2003 the office noted that bhatta charges were not remitted inspite of the extension having been granted

and ultimately the petition was dismissed for default.

3. The reasons set out in support of condonation of delay fail to make out even a proximate case for sufficient reasons to condone the delay. Coming to the point of irreparable loss/injustice, it is to be noted that the Labour Court by its Award dated 31.7.2001 has granted reinstatement to the applicant-workman, but without back wages. However, the continuity of service has been granted to him by the said order. The learned Judge of the Labour Court denied he benefit of back wages by recording a finding that during the interim period, the workman was gainfully employed as admitted by him in his oral deposition. The Labour Court also noted that the workman did not seek relief of reinstatement. The order of termination was found to be illegal by the Labour Court only on the ground that the management failed to follow the provisions of Section 25-G and 25-H of the Industrial Disputes Act, 1947 read with Rules 81 and 82 of the Industrial Disputes Rules,

1957. Thus, there is no case made out even for irreparable loss/injustice.

4. The application is, therefore, rejected.

(B.H. MARLAPALLE,J.)